REMARKS/ARGUMENTS

The Office Action has rejected claims 1-82 under 35 U.S.C. § 103(a) as being obvious in light of U.S. Patent 6,072,777 (Bencheck) and U.S. Patent 5,655,068 (Opoczynski). The Office Action has asserted that Bencheck discloses all of the elements of the independent claims, except for the use of overhead information to carry error correction information which is disclosed in Opoczynski. The Office Action therefore concludes that it would have been obvious to a person of ordinary skill in the art to have combined Bencheck and Opoczynski to have arrived at the claimed invention. In response thereto, Applicant has amended independent claims 30, 56 and 71 to read: "...a predetermined location within a payload portion of a payload envelope...". These amendments bring claims 30, 56 and 71 into alignment with independent method claim 1, which already contains this limitation. It is respectfully submitted that claim 1 and newly amended independent claims 30, 56 and 71 distinguish patentably over the prior art cited by the Examiner.

Bencheck teaches the insertion and extraction of performance monitor information into and from the overhead portion of a synchronous frame. As stated explicitly in column 6, lines 52-57: "In the SONET context, section and line overhead information is contained within the transport overhead portion of a synchronous transport signal (STS) frame (not shown). Path overhead information, on the other hand, is contained within the synchronous payload envelope (SPE) information payload." As further noted in column 7, lines 7-9, "Regenerator 230 can use the extracted section overhead information to determine the error performance of the transmission...". Therefore, as noted in column 7, line 15, the regenerators 220 and 230 "extract only the section overhead information." In the following paragraphs, Bencheck expressly teaches that the multiplexer 210 and cross-connect 240 "insert and extract both line and section overhead information." Finally, Bencheck teaches at line 27 that, "These elements insert and extract path overhead information." It is respectfully submitted that Bencheck does not teach or suggest the insertion of performance monitor information into a pre-determined location within a payload portion of a payload envelope. In contrast,

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Bencheck inserts performance monitor information into the transport overhead and path overhead of the SONET frame. Since Bencheck does not teach or suggest the insertion of performance monitor information into a pre-determined location within a payload portion of a payload envelope, the obviousness rejection is improper and hereby traversed.

The Office Action has objected to claims 27-29 for referring to a second pre-determined value when there is no mention of the first pre-determined value in the claim upon which claims 27-29 depend. In response thereto, Applicant has amended claim 27 to make it dependent on claim 23, as suggested by the Examiner.

In addition, Applicant has corrected several minor typographical errors in claims 33, 40, 50, 51, 59, 64, 66, 77, 78 and 81. No new subject matter has been added.

In light of the foregoing amendments and arguments, it is respectfully submitted that this application is now in a condition for immediate allowance. Applicant therefore respectfully requests the prompt issuance of a Notice of Allowance.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,

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